IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.08.2006

CORAM:

THE HON'BLE MR. JUSTICE P.SATHASIVAM

AND

THE HON'BLE MR. JUSTICE S.MANIKUMAR

WRIT APPEAL NO.2689 of 2001

K.Pandian .. Appellant

vs.

1. State of Tamil Nadu
   rep. by its Secretary
   Back Ward Classes and
   Most Backward Classes
   Welfare Dept.
   Madras 9.

2. The District Backward Classes
   & Most Backward Welfare Officer
   Collectorate
   Vellore N.A.A. District.

3. The Tahsildar D.R.S.
   Taluk Office, Gudiyattam
   N.A.A. District. .. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order of the learned single Judge dated 14.08.2001 made in Writ Petition No.4880 of 1995 presented to this Court under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records pertaining to the Land Acquisition proceedings as published, section 4(1) notification made in G.O.3D.No.47 as published in Government Gazette culminated in the section 6 declaration in G.O.3D.No.15 dated 2.2.1993 relating to the Acquisition of Land of the petitioner bearing S.No.103/1 with the extent of 1 Acre of Sengundram Village, Gudiyatham Taluk, North Arcot Ambedkar District on the file of the 3rd respondent herein and quash the same.

For appellant : Mr.D.Rajagopal

For respondents: Mr.P.Wilson
Spl. Govt., Pleader

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JUDGMENT

(Judgment of the Court was delivered by P. SATHASIVAM,J.)

The above writ appeal is directed against the order of the learned Single Judge dated 14.8.2001 made in W.P.No.4880 of 1995 in and by which the learned Judge dismissed the writ petition.

2. Heard learned counsel appearing for the appellant and learned Special Government Pleader for the respondents.

3. One Chinnaraj Gounder, father of the appellant herein filed the writ petition, viz., W.P.No.4880 of 1995 questioning the acquisition proceedings initiated by the respondents. According to him, he purchased the land comprised in survey No.103/1, Sengundram Village, Kudiyatham Taluk on 9.4.1968 from one Kuppuswamy Gounder by sale deed No.4864. During the period of U.D.R. Scheme in the year 1987, his name was not entered in the patta book, he made several representations to the Special Tahsildar, UDR Scheme. Meanwhile, the respondents initiated land acquisition proceedings, which was challenged by filing the above writ petition. During the pendency of the writ petition, the petitioner Chinnaraj Gounder died and in his place, his nephew, K.Pandian was brought on record. By the impugned order, the learned Single Judge, after finding that award was passed as early as 22.2.1995, possession was taken on 6.3.1995 and the writ petition was filed only on 27.3.1995, refused to interfere with the acquisition proceedings and ultimately, dismissed the writ petition.

4. Mr.D.Rajagopal, learned counsel for the appellant submitted that since there was no notice to the owner/appellant, the entire acquisition proceedings are liable to be quashed and the learned Single Judge failed to consider the same and committed an error in dismissing the writ petition on the ground of delay. According to him, when the appellant was not given notice, his claim cannot be rejected on the ground of delay. While elaborating the above contention, he pointed out that even in the writ proceedings, there is a reference to the effect that Chinnaraj Gounder was owning an extent of 1.03 acres in survey No.103/1 of Sengundram village and in spite of the same, no notice was issued to him. On perusal of the entire award proceedings, we are unable to accept the said contention. The following particulars available in the award proceedings are relevant.

" ஆட்சேபணை / 2 / ச.நெ.103/1/ல் 1.06 ஏக்கர் நிலம் தீர்களுக்கு சொந்தம். மீதி 1.03 ஏக்கர் நிலம் திரு.சின்னராஜ் கவுண்டர் என்பவருக்கு சொந்தம்.

விளக்கம் :-

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இது சரியல்ல. ச.நெ.103/1/ல் 2.09 ஏக்கர் நிலம் இவர்களுக்குத் தான் சொந்தம். இவர்களுடைய சுவாதீன அனுபவத்தில் தான் இருந்து வருகிறது. மேலும் பட்டா எண்.725 மற்றும் 818/ல் மொத்தம் 8.82 ஏக்கர் நிலம் இவர்களுக்கு சொந்தமாக உள்ளது. எனவே இந்த ஆட்சேபணை தள்ளுபடி செய்யப்பட்டது.ஞ

5. It is clear that though an objection was taken that an extent of 1.03 acres of land belonged to Chinnaraj Gounder, on verification of the revenue records such as, patta, adangal etc., the Land Acquisition Officer came to the conclusion that the entire extent, viz., 2.09 acres in survey No.103/1 belonged to M/s.Soundararajan and Pandian sons of Kaliyappa Gounder of Sengundram village. It is also clear that the entire extent was possessed by the said persons. It is seen that both Soundararajan and Pandian appeared before the Land Acquisition Officer during 5-A enquiry conducted on 24.4.1992 and submitted their objection stating that they belong to Vanniyar community and the land owned by Vanniyars should not be acquired. It is relevant to note that they have not stated anything about the ownership of Chinnaraj Gounder as now claimed by the appellant. In such circumstances, particularly in the light of the entries found in the revenue records such as, chitta and patta, the Land Acquisition Officer was not expected to conduct a roving enquiry.

6. It is true that the learned counsel for the appellant has brought to our notice the representation given by Chinnaraj Gounder to the Tahsildar under UDR Scheme and the Collector on 1.2.1991. However, there is no dispute that no such complaint or representation was made to the Land Acquisition Officer. Merely because Chinnaraj Gounder made a representation to the Collector as well as the Tahsildar, he was not expected to intimate the same to the other authority, viz., the Land Acquisition Officer. In this regard, it is useful to refer the judgment of the Supreme Court reported in W.B. Housing Board and others vs. Brijendra Prasad Gupta [(1997) 6 SCC 207] and the following conclusion in para-8 is relevant:

> " 8. The Division Bench has observed that the Collector would have been aware of the pendency of the applications of the writ petitioners for mutation of lands in their names when the same were pending in his office. The Bench in effect observed that it was a case where the right hand did not know what the left hand was doing. This observation sounds good, but knowing the working of the government offices it appears to have no place. Of course, the Collector could have asked for a report from the prescribed authority

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> concerned if any application for mutation of the land was pending with him. But that would be expecting too much from the Collector. It is no part of the duty of the Collector to make a roving inquiry into ownership of the persons. We are of the opinion that the requirements of the law were met when notices were served upon the recorded owners as per the Record of Rights. Again we do not think in a case like the present one, it is for the Collector to make enquiries from the registration office to find out if the land had since been sold by the recorded owners. In Winky Dilawari vs. Amritsar Improvement Trust (1996 911) SCC 644, this Court observed that the public authorities were not expected to go on making enquiries in the Sub-Registrar's office as to who would be the owner of the property. .... "

7. In the light of the judgment of the Supreme Court, though the appellant claims that there was a representation by Chinaraj Gounder to the Tahsildar and the Collector (against the issue of patta in favour of Soundararajan and Pandian without his knowledge), there is no obligation on the part of the said authorities to inform the same to the Land Acquisition Officer. In the light of the above conclusion, the contention raised by the learned counsel for the appellant is liable to be rejected.

8. Apart from the above conclusion, it is also relevant to mention that after proper enquiry, award was passed in Award No.5/94-95 on 22.2.1995. The Land Acquisition Officer also deposited the compensation amount of Rs.98,964/- in the revenue deposit. Further, the possession was also taken on 6.3.1995. Admittedly, the writ petition came to be filed after the possession was taken. In such circumstances the appellant cannot be permitted to challenge the acquisition proceedings. On this ground also, the writ petition has to be dismissed. Though the learned Single Judge dismissed the writ petition only on the ground of delay and laches on the part of the appellant, in view of our discussion and the ultimate conclusion, we do not find any valid ground for quashing the acquisition proceedings. Consequently, the writ appeal fails and the same is dismissed. No costs.

kh

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

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   Taluk Office, Gudiyattam
   N.A.A. District.

+ one cc to Mr.Additional Government Pleader, Sr.No.35284.

NA (CO)
RSM/18.8.2006

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